

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NEW YORK

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IN RE:

Simaris Diaz,

CASE NO. 05-23732 jcn  
CHAPTER 13

DEBTOR.

JUDGE: John C. Ninfo, II

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**ORDER CONDITIONALLY GRANTING  
RELIEF FROM THE AUTOMATIC STAY**

Upon the Application dated November 16, 2005, (the "Application") of Chase Home Finance, LLC (the "Movant"), by its attorneys, Rosicki, Rosicki & Associates, P.C., seeking an Order: (i) modifying and terminating the automatic stay to permit the Movant to exercise all of its rights and remedies with respect to certain collateral consisting of the real property known as 132 Cherry Road, Rochester, NY 14612, (the "Premises"); and (ii) granting Movant such other and further relief as the Court deems just and proper; and

The Application having come before this Court to be heard on December 14, 2005; and the parties having agreed to the entry of the within Conditional Order, it is hereby

**ORDERED** that the Motion of Movant is conditionally granted as set forth below, and it is further

A. **ORDERED** that on or before February 28, 2006, Simaris Diaz (the "Debtor"), shall pay Movant all post-petition arrears on her mortgage; such payments to include principal, interest, and reasonable attorney fees in the amount of

\$500.00 for a total sum of \$2,954.36; such sum shall be good through December 31, 2005, and payment shall be made by certified funds and mailed to:

Chase Home Finance, LLC  
10790 Rancho Bernardo Road  
San Diego, CA 92127  
c/o Bankruptcy Department.

The payments shall be made as follows:

\$1,400.00 due on or before December 31, 2005  
\$777.18 due on or before January 31, 2006  
\$777.18 due on or before February 28, 2006

And it is further,

B. **ORDERED** that the Debtor shall make timely regular monthly payments to Chase Home Finance, LLC at the address listed below by the 1<sup>st</sup> day of each and every month, commencing with the January 1, 2006 payment.

C. **ORDERED** that in the event the Debtor fails to tender the sums due under paragraph "A" hereinabove, or fails to make payments described in paragraph "B" hereinabove, and thereafter fails to comply with a ten (10) day Notice to Cure, then upon the filing of an Affirmation of Non-Compliance, the automatic stay is vacated with respect to the mortgage held by Chase Home Finance, LLC to the extent necessary to allow Chase Home Finance, LLC, its successors and/or assigns, to commence and/or continue mortgage foreclosure and eviction proceedings on the real property located at 132 Cherry Road, Rochester, NY 14612, and it is further

D. **ORDERED** that in the event the Debtor fails to tender the sums due under paragraph "A" and/or the payments due pursuant to paragraph "B" hereinabove, and if three (3) notices to cure had previously been sent to Debtor and Debtor's attorney pursuant to paragraph "C" hereinabove, (for three previous defaults under this order), the automatic stay will be vacated without further notice to the Debtor or Debtor's attorney upon filing of an Affirmation of Non-Compliance, and it is further

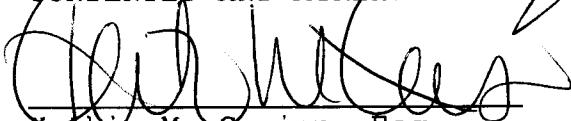
E. **ORDERED** that the Trustee retain any and all interest that the Trustee may have in any surplus monies that may be produced from a foreclosure sale of the property, and will be noticed of any such sale of the property and surplus money proceedings.

DATED:

, New York  
1/13/06

Hon. John C. Ninfo, II  
United States Bankruptcy Judge

CONSENTED AND AGREED TO BY:

  
Kathia M. Casion, Esq.  
Attorney for Debtor

Movant shall mail a copy of this Order to Debtor, and if represented in this matter, Debtor's attorney, within 10 days of the date of this Order.

